



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

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April 8, 1997

Dan Brinkerhoff, President
Brady Ditch
HC 13
Box 110
Fairview, UT 84629

Dear Mr. Brinkerhoff:

After our telephone conversation last week, I researched the records that we have and talked with Kirk Forbush, the regional engineer, and Larry Rawlings, the water commissioner. We were not able to find an explanation for the number that is shown on page 107 of the Cox Decree and which describes the flow right now covered by water right number 65-3235. Both the Cox Decree and the Findings of Fact for the decree show the number as $1.46\frac{1}{2}/80$ so it is not likely that it is a typographical error.

The Cox Decree gives a reference to paragraph 12 of the Johnson Decree, however, that paragraph refers to the Seeley Ditch, the Spring Ditch, and the Wheeler and Turpin Ditch. The flow amount described in that paragraph is for a total of $23/80$ ths which does not correspond to the number shown in the Cox Decree. We have no information concerning why the number was changed, but the Cox Decree supersedes the Johnson Decree so we are bound to follow it.

We agree that $1.46\frac{1}{2}/80$ is a confusing number, however, historically it has been interpreted as $1.465/80$ in the distribution of water on the San Pitch River. Because of the historical precedence, we are hesitant to make any changes in the distribution without documentation that the current interpretation is in error. Therefore, the commissioner has been instructed to continue distributing water according to the information that he now has.

I am sorry that we do not have more information which would clarify the Cox Decree on this point. If you discover any further information that would help explain this situation, we would be happy to review it. If you have any questions, please contact me at 538-7380.

Sincerely,

Lee H. Sim, P.E.
Assistant State Engineer
For Adjudication and Distribution

LHS:bd

cc: 5 Kirk Forbush
5 Larry Rawlings

